

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Gerald Francis Chilli, # 02131-158,
Petitioner,
vs.
John R. Owens, Warden FCI –Williamsburg;
Respondents.

C.A. No. 6:11-435-TLW-KFM

ORDER

This action was filed by the petitioner, *pro se*, pursuant to 28 U.S.C. § 2241. (Doc. # 1). The respondent filed a motion to dismiss on April 22, 2011. (Doc. # 13). As the petitioner was proceeding *pro se*, an Order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975) was issued advising the petitioner of the importance of a motion to dismiss. (Doc. # 14). Petitioner was specifically advised that if he failed to respond adequately, the respondent's motion may be granted, thereby ending his case. Id. Petitioner filed a motion for summary judgment on April 27, 2011, and a response in opposition to respondent's motion to dismiss on May 4, 2011. (Docs. # 16 & # 17). On May 13, 2011, respondent filed a response in opposition to petitioner's motion for summary judgment and a reply to petitioner's response to respondent's motion to dismiss. (Docs. # 20 & #21).

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Kevin F. McDonald, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge McDonald recommends that the respondent’s motion to dismiss be

granted and that petitioner's motion for summary judgement be denied. (Doc. # 23). To date, no objections to the Report have been filed.

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge's Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

A review of the record indicates that the Report accurately summarizes this case and the applicable law. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 23), the respondent's motion to dismiss is **GRANTED** (Doc. # 13), and petitioner's motion for summary judgement is **DENIED**. (Doc # 16).

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

November 22, 2011
Florence, South Carolina